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C O N F I D E N T I A L STATE 284432

E.O. 12055: GDS (10/24/67) CLAMBRAKIS, GEORGE

TAGS: PARM, UGUA, EG

SUBJECT: 35TH UNGA FIRST COMMITTEE: EGYPTIAN DRAFT RESOLUTION ON MENWFZ

REFERENCE: A) USUN 3610, B) STATE 261098

1. WE AGREE GENERALLY WITH MISSION'S ANALYSIS OF EGYPTIAN DRAFT RESOLUTION AND TACTICS PROPOSED IN PARAS A THROUGH E OF REFTTEL A. IN THE FIRST INSTANCE U.S. DEL SHOULD SEEK TO WORK OUT A SATISFACTORY TEXT WITH EGYPTIAN DELEGATION.

2. AS INDICATED IN REFTTEL B THE U.S. HAS CONSISTENTLY OPPOSED THE IDEA OF THE UNGA PURPORTING TO CREATE LEGAL REGIMES THROUGH DECLARATORY RESOLUTIONS. SUCH ACTION IS BEYOND ITS CONSTITUTIONAL AUTHORITY UNDER ARTICLES 10, 11, OR OTHER ARTICLES OF THE CHARTER. U.S. DEL SHOULD REMIND EGYPTIANS THAT THE GENERAL ASSEMBLY DOES NOT POSSESS INTERNATIONAL LEGISLATIVE AUTHORITY. IT CAN STUDY, IT CAN DISCUSS, IT CAN DEBATE, IT CAN RECOMMEND, BUT IT CANNOT LEGISLATE. EXCEPT FOR SPECIFIC MATTERS NOT RELEVANT HERE, IT CANNOT MAKE DECISIONS THAT ARE BINDING UPON MEMBERS OF THE UNITED NATIONS. THE UNITED STATES AND MANY OTHER DELEGATIONS WOULD BE OPPOSED IN PRINCIPLE TO THE PROPOSAL TO DECLARE THE REGION AS A NWZF. AND AS U.S. DEL NOTED IN

PARA 6 OF REFTTEL A PASSAGE OF SUCH DECLARATION WOULD UNDERMINE ANY EFFORTS TO NEGOTIATE SUCH A ZONE. IN OUR VIEW A MENWFZ CAN COME INTO BEING ONLY THROUGH THE WILL OF THE STATES OF THE REGION WHO MUST NEGOTIATE AND ESTABLISH THE NEW LEGAL SITUATION THROUGH THE MECHANISM OF A LEGALLY BINDING INSTRUMENT. OBVIOUSLY NO NUCLEAR WEAPONS FREE ZONE CAN BE OPERATIVE UNLESS ALL STATES IN THE REGION PARTICIPATE.

3. SPECIFIC COMMENTS ON TEXT DRAFT RESOLUTION FOLLOW:
2ND PREAMBULAR PARA - WE NOTE THAT THE FINAL DOCUMENT OF THE TENTH SPECIAL SESSION OF THE GENERAL ASSEMBLY CALLED FOR THE ESTABLISHMENT OF NUCLEAR-WEAPON-FREE ZONES "ON THE BASIS OF AGREEMENT OR ARRANGEMENTS FREELY ARRIVED AT AMONG THE STATES OF THE ZONES CONCERNED..." LANGUAGE DOES NOT CONTEMPLATE ESTABLISHMENT OF SUCH ZONES OTHER THAN BY VOLUNTARY AGREEMENT AMONG THE STATES OF THE REGION. IT SHOULD BE INCORPORATED INTO TEXT AGAIN IN VIEW OF SENSITIVITY AND CENTRALITY OF ISSUE.

4TH AND 5TH PREAMBULAR - WE NOTE THAT LAST YEAR'S UNGA MENWFZ RESOLUTION, SUPPORTED BY THE ISRAELI'S, INVITED PARTIES TO AGREE TO PLACE ALL THEIR NUCLEAR ACTIVITIES UNDER IAEA SUPERVISORS.

1TH PREAMBULAR PARA - WE NOTE THAT THE FINAL DOCUMENT OF THE TENTH SPECIAL SESSION OF THE GENERAL ASSEMBLY CALLED FOR THE ESTABLISHMENT OF NUCLEAR-WEAPONS FREE ZONES "ON THE BASIS OF AGREEMENT OR ARRANGEMENTS FREELY ARRIVED AT AMONG THE STATES OF THE ZONES CONCERNED..." LANGUAGE DOES NOT CONTEMPLATE ESTABLISHMENT OF SUCH ZONES OTHER THAN BY VOLUNTARY AGREEMENT AMONG THE STATES OF THE REGION. IT SHOULD BE INCORPORATED INTO TEXT AGAIN IN VIEW OF SENSITIVITY AND CENTRALITY OF ISSUE.

6TH PREAMBULAR PARA - THIS PARA SHOULD BE DELETED. THE FORMULATION OF PLANS BY THE SECURITY COUNCIL FOR THE ESTABLISHMENT OF A SYSTEM FOR THE REGULATION OF ARMAMENTS UNDER ARTICLE 26 OF THE CHARTER IS NOT HERE INVOLVED.

FIRST AND 2ND OPERATIVE PARA - THESE SHOULD BE DELETED - IT IS OUR STRONG VIEW THAT THE UNGA LACKS LEGAL CAPACITY TO LEGISLATE THROUGH DECLARATORY RESOLUTIONS THAT SEEK TO IMPOSE LEGAL REGIMES OTHER THAN BY AGREEMENTS FREELY ARRIVED AT BY MEMBERS A ES. HOWEVER, WE BELIEVE THERE SHOULD BE A NEW FIRST PARA STATING "URGES THE STATES OF THE REGION TO ENTER INTO DIRECT NEGOTIATIONS LEADING TOWARD THE ESTABLISHMENT OF A MENWFZ."

3RD OPERATIVE PARA - THE WORD "INVITES" SHOULD BE SUBSTITUTED FOR "URGES" CONSISTENT WITH LAST YEAR'S UNGA MENWFZ RESOLUTION.

4TH OPERATIVE PARA - SUBSTITUTE WORD "URGES" FOR THE WORDS "EARNESTLY IMPLORES" CONSISTENT WITH PRIOR UNGA MENWFZ.

6TH OPERATIVE PARA, WE BELIEVE IT IS IMPORTANT THAT THE SPECIAL REPRESENTATIVE OBTAIN REGIONAL PARTIES' ATTITUDES ON "NEGOTIATIONS LEADING TO THE ESTABLISHMENT" OF A MENWFZ. THIS PARA SHOULD BE MODIFIED ACCORDINGLY.

5TH OPERATIVE PARA, INVITING SECURITY COUNCIL MEASURES TO FACILITATE AND EXPEDITE ESTABLISHMENT OF MENWFZ, SHOULD BE DELETED.

4. WITH RESPECT TO US PROPOSED OPERATIVE PARAGRAPH 1, MISSION IS AUTHORIZED, IF EGYPTIANS REFUSE TO ACCEPT OUR SUGGESTED PARA, TO AGREE TO ITS DELETION BUT YOU SHOULD INSIST ON REFERENCE TO "NEGOTIATIONS" IN OPERATIVE PARA 6 IN ANY EVENT.

TAKING EGYPTIAN TEXT AS MODIFIED AS THE BASIS FOR FURTHER DISCUSSIONS, YOU SHOULD SUGGEST AS NEXT STEP THAT EGYPTIANS CONSULT WITH ISRAELIS AND U.S. WITH ITS WESTERN ALLIES AND THEN EGYPT CIRCULATE RESOLUTION GENERALLY. IN EVENT EGYPTIAN AND U.S. DELEGATIONS CANNOT REACH AN ACCOMMODATION ALONG THE LINES OF OUR CHARGES, YOU SHOULD SUGGEST HIGHER LEVEL BILATERAL DISCUSSIONS IN CAPITALS IN AN EFFORT TO IRON OUT DIFFERENCES BEFORE EGYPTIANS INTRODUCE OR CIRCULATE RESOLUTION. (OUR PRESENT THINKING IS TO TRY TO GET A BILATERAL UNDERSTANDING WITH EGYPTIANS BEFORE BRINGING IN OTHERS, BUT MISSION SHOULD USE ITS DISCRETION TO BRING IN ISRAELIS AND WESTERN ALLIES IF EGYPTIANS START BRINGING IN OTHERS.) HAIG

State Dept. review completed